

Practitioner's Docket No. 498-53 CON/RES**PATENT****REISSUE APPLICATION DECLARATION AND POWER OF ATTORNEY
(BY INVENTOR(S) OR ASSIGNEE)**

(complete A or B)

A. ☒ DECLARATION BY THE INVENTOR(S)

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name, I believe I am the original, first and sole inventor (*if only one name is listed below*) or an original, first and joint inventor (*if plural names are listed below*) of the subject matter that is described and claimed in letters patent number 5,697,970, granted on December 16, 1997, and for which invention I solicit a reissue patent on the invention entitled THINLY WOVEN FLEXIBLE GRAFT

the specification of which

☒ is attached hereto.☐ was filed on _____, as reissue application number / and was amended on _____ (*if applicable*).☐ I hereby declare that there is no assignee for this application.

NOTE: "Where no assignee exists, applicant should affirmatively state that fact. If the file record is silent as to the existence of an assignee, it will be presumed that no assignee exists." M.P.E.P., 6th ed., rev. 1, § 1410.01.

B. ☐ DECLARATION BY ASSIGNEE

NOTE: The assignee of the entire interest may make the declaration, if the reissue application does not seek to enlarge the scope of the claims of the original patent. 37 C.F.R. § 1.172.

(type or print name of declarant)_____
Title

of _____,

Name of company or legal entity on whose behalf declarant is authorized to sign

declare that I am a citizen of _____ and resident of _____,

_____, that the entire title to letters patent number _____,

for _____,

granted on _____, 19____ to _____

Inventor(s)

is vested in _____

Name of company or legal entity

that I believe said named inventor(s) to be an original, first and sole inventor (*if only one name is listed*) or an original, first and part inventor (*if plural names are listed*) of the subject matter that is described and claimed in the aforesaid letters patent and in the foregoing specification and for which invention I solicit a reissue patent.

655727 07949450

ACKNOWLEDGEMENT OF REVIEW OF PAPERS AND DUTY OF CANDOR

(37 C.F.R. § 1.175)

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information that is material to patentability as defined in Title 37, Code of Federal Regulations, § 1.56.

- ☒ In compliance with this duty, there is attached an information disclosure statement in accordance with 37 C.F.R. § 1.98.

PRIORITY CLAIM

NOTE: A "claim" for the benefit of an earlier filing date in a foreign country under 35 U.S.C. 119(a)-(d) must be made in a reissue application even though such a claim was made in the application on which the original was granted. However, no additional certified copy of the foreign application is necessary. M.P.E.P., 6th ed., rev. 1, § 1417.

I hereby claim foreign priority benefits under Title 35, United States Code, § 119 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed.

(complete C or D)

- C. ☒ No such applications have been filed.
D. ☐ Such applications have been filed as follows:

**EARLIEST FOREIGN APPLICATION(S), IF ANY FILED WITHIN 12 MONTHS
(6 MONTHS FOR DESIGN) PRIOR TO SAID APPLICATION**

Country	Application No.	Date of filing (day, month, year)	Date of issue (day, month, year)	Priority Claimed
				<input type="checkbox"/> YES NO <input type="checkbox"/>
				<input type="checkbox"/> YES NO <input type="checkbox"/>
				<input type="checkbox"/> YES NO <input type="checkbox"/>

**ALL FOREIGN APPLICATION(S), IF ANY FILED MORE THAN 12 MONTHS
(6 MONTHS FOR DESIGN) PRIOR TO SAID APPLICATION**

BENEFIT OF PROVISIONAL APPLICATION

(Reissue Application Declaration and Power of Attorney [17-6]—page 2 of 6)

665127 "OT 945450

**STATEMENT OF INOPERATIVENESS
OR INVALIDITY OF ORIGINAL PATENT**

(37 C.F.R. § 1.175)

That I believe the original patent to be

☒ partly☐ wholly

inoperative or invalid by reason of (37 C.F.R. § 1.175(a)(1)):

(check all items that may apply)☐ a defective specification☐ a defective drawing☒ the patentee claiming more or less than the patentee had a right to claim in the patent.*NOTE: At least one error must be relied upon as the basis for the reissue. 37 C.F.R. § 1.175(a)(1).*

That the error listed above, which are being corrected, up to the time of the filing of this reissue declaration arose without any deceptive intention on the part of the applicant. (37 C.F.R. § 1.175(a)(2)).

NOTE: For any error corrected not covered by this declaration applicant must submit, before allowance, a supplemental declaration stating that every such error arose without any deceptive intention on the part of the applicant. 37 C.F.R. § 1.175(b)(1).☐ Corroborating affidavits or declarations of others accompany this declaration.

SECRET

POWER OF ATTORNEY

I hereby appoint the following practitioner(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith.

(list name and registration number)

Charles R. Hoffmann, Reg. No. 24,102; Ronald J. Baron, Reg. No. 29,281; Gerald T. Bodner, Reg. No. 30,449; Alan M. Sack, Reg. No. 31,874; A. Thomas Kammer, Reg. No. 28,226; R. Glenn Schroeder, Reg. No. 34,720; Glenn T. Henneberger, Reg. No. 36,074; Irving N. Feit, Reg. No. 28,601; Anthony E. Bennett, Reg. No. 40,910; Gregory A. Bachmann, Reg. No. P41,593; Steven T. Zuschlag, Reg. No. 43,309; Susan A. Sipos, Reg. No. 43,128; and Kevin E. McDermott, Reg. No. 35,946, each of them of HOFFMANN & BARON, LLP, 6900 Jericho Turnpike, Syosset, New York 11791; and Daniel A. Scola, Jr., Reg. No. 29,855; Salvatore J. Abbruzzese, Reg. No. 30,152; Kirk M. Miles, Reg. No. 37,891; Robert F. Chisholm, Reg. No. 39,939; Kellyanne Merkel, Reg. No. 43,800; John S. Sopko, Reg. No. 41,321; Barry H. Jacobsen, Reg. No. 43,689; and Keith R. Lange, Reg. No. 44,201, and Gloria K. Szakiel, Reg. No. 45,149, each of them of HOFFMANN & BARON, LLP, 1055 Parsippany Boulevard, Parsippany, New Jersey 07054.

SEND CORRESPONDENCE TO

☒ Address

Hoffmann & Baron, LLP
6900 Jericho Turnpike
Syosset, NY 11791

☐ Customer Number _____

DIRECT TELEPHONE CALLS TO:
(Name and telephone number)

Salvatore J. Abbruzzese
(973) 331-1700

(Reissue Application Declaration and Power of Attorney [17-6]—page 4 of 6)

DECLARATION

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Signature(s)☐ **BY THE INVENTOR(S)**Full name of sole or first inventor Peter J. Schmitt

Inventor's signature _____

Date _____ Country of Citizenship U.S.Residence 2 Bubenko Drive, Garnerville, NY 10923Post Office Address Same as aboveFull name of second joint inventor, if any Jose F. NunezInventor's signature Jose F. NunezDate 12/13/99 Country of Citizenship U.S.Residence 2804 Silver Lane, St. Anthony, MN 55421Post Office Address Same as above☐ **BY ASSIGNEE OR PERSON AUTHORIZED TO SIGN ON BEHALF OF ASSIGNEE**

NOTE: Even though inventor(s) do not sign, complete above information for inventor(s).

(complete the following, if applicable)

Meadox Medicals, Inc.
(type name of assignee)45 Barbour Pond Drive
Address of assigneeWayne, NJ 07470

Title of person authorized to sign on behalf of assignee

☒ Assignment recorded in PTO on 8/2/94Reel 7115Frame 0854☒ A separate ☒ "ASSIGNMENT (DOCUMENT) COVER SHEET"
or ☐ FORM PTO 1595 is submitted herewith along with the assign-
ment _____

651-286-4848

STATEMENT BY ASSIGNEE

- ☒ Attached is a "STATEMENT UNDER 37 C.F.R. 3.73(b)," establishing the right of the assignee to take action in this reissue.

Signature of assignee or person authorized to
sign on behalf of assignee

(check proper box(es) for any added page(s) forming a part of this declaration)

- ☐ Signature for third and subsequent joint inventors. Number of pages added. _____
- ☐ Signature by administrator(trix), executor(trix) or legal representative for deceased or incapacitated inventor. Number of pages added. _____
- ☐ Signature for inventor who refuses to sign or cannot be reached by person authorized under 37 C.F.R. § 1.47. Number of pages added. _____
- ☐ Statement of inoperativeness or invalidity of original patent. 37 C.F.R. § 1.175. Number of pages added _____
- ☐ Authorization of attorney(s) to accept and follow instructions from representative.
- ☐ Corroborating statements of others.

(Reissue Application Declaration and Power of Attorney [17-6]—page 6 of 6)

Practitioner's Docket No. 498-53 CON/RES**PATENT****REISSUE APPLICATION DECLARATION AND POWER OF ATTORNEY
(BY INVENTOR(S) OR ASSIGNEE)**

(complete A or B)

A. ☒ DECLARATION BY THE INVENTOR(S)

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name, I believe I am the original, first and sole inventor (*if only one name is listed below*) or an original, first and joint inventor (*if plural names are listed below*) of the subject matter that is described and claimed in letters patent number 5,697,970, granted on December 16, 1997, and for which invention I solicit a reissue patent on the invention entitled THINLY WOVEN FLEXIBLE GRAFT

the specification of which

☒ is attached hereto.☐ was filed on _____, as reissue application number / and was amended on _____ (*if applicable*).☐ I hereby declare that there is no assignee for this application.

NOTE: "Where no assignee exists, applicant should affirmatively state that fact. If the file record is silent as to the existence of an assignee, it will be presumed that no assignee exists." M.P.E.P., 6th ed., rev. 1, § 1410.01.

B. ☐ DECLARATION BY ASSIGNEE

NOTE: The assignee of the entire interest may make the declaration, if the reissue application does not seek to enlarge the scope of the claims of the original patent. 37 C.F.R. § 1.172.

(type or print name of declarant)

Title

of _____,

Name of company or legal entity on whose behalf declarant is authorized to sign

declare that I am a citizen of _____ and resident of _____,

_____, that the entire title to letters patent number _____,

for _____,

granted on _____, 19____ to _____

Inventor(s)

is vested in _____

Name of company or legal entity

that I believe said named inventor(s) to be an original, first and sole inventor (*if only one name is listed*) or an original, first and part inventor (*if plural names are listed*) of the subject matter that is described and claimed in the aforesaid letters patent and in the foregoing specification and for which invention I solicit a reissue patent.

00454510-11599

ACKNOWLEDGMENT OF REVIEW OF PAPERS AND DUTY OF CANDOR
(37 C.F.R. § 1.175)

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information that is material to patentability as defined in Title 37, Code of Federal Regulations, § 1.56.

- ☒ In compliance with this duty, there is attached an information disclosure statement in accordance with 37 C.F.R. § 1.98.

PRIORITY CLAIM

NOTE: A "claim" for the benefit of an earlier filing date in a foreign country under 35 U.S.C. 119(a)-(d) must be made in a reissue application even though such a claim was made in the application on which the original was granted. However, no additional certified copy of the foreign application is necessary. M.P.E.P., 6th ed., rev. 1, § 1417.

I hereby claim foreign priority benefits under Title 35, United States Code, § 119 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed.

(complete C or D)

- C. ☒ No such applications have been filed.
D. ☐ Such applications have been filed as follows:

**EARLIEST FOREIGN APPLICATION(S), IF ANY FILED WITHIN 12 MONTHS
(6 MONTHS FOR DESIGN) PRIOR TO SAID APPLICATION**

Country	Application No.	Date of filing (day, month, year)	Date of issue (day, month, year)	Priority Claimed
				<input type="checkbox"/> YES NO <input type="checkbox"/>
				<input type="checkbox"/> YES NO <input type="checkbox"/>
				<input type="checkbox"/> YES NO <input type="checkbox"/>

**ALL FOREIGN APPLICATION(S), IF ANY FILED MORE THAN 12 MONTHS
(6 MONTHS FOR DESIGN) PRIOR TO SAID APPLICATION**

BENEFIT OF PROVISIONAL APPLICATION

(Reissue Application Declaration and Power of Attorney [17-6]—page 2 of 6)

**STATEMENT OF INOPERATIVENESS
OR INVALIDITY OF ORIGINAL PATENT**

(37 C.F.R. § 1.175)

That I believe the original patent to be

☒ partly☐ wholly

inoperative or invalid by reason of (37 C.F.R. § 1.175(a)(1)):

(check all items that may apply)

☐ a defective specification☐ a defective drawing☒ the patentee claiming more or less than the patentee had a right to claim in the patent.**NOTE:** At least one error must be relied upon as the basis for the reissue. 37 C.F.R. § 1.175(a)(1).

That the error listed above, which are being corrected, up to the time of the filing of this reissue declaration arose without any deceptive intention on the part of the applicant. (37 C.F.R. § 1.175(a)(2).

NOTE: For any error corrected not covered by this declaration applicant must submit, before allowance, a supplemental declaration stating that every such error arose without any deceptive intention on the part of the applicant. 37 C.F.R. § 1.175(b)(1).☐ Corroborating affidavits or declarations of others accompany this declaration.

POWER OF ATTORNEY

I hereby appoint the following practitioner(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith.

(list name and registration number)

Charles R. Hoffmann, Reg. No. 24,102; Ronald J. Baron, Reg. No. 29,281; Gerald T. Bodner, Reg. No. 30,449; Alan M. Sack, Reg. No. 31,874; A. Thomas Kammer, Reg. No. 28,226; R. Glenn Schroeder, Reg. No. 34,720; Glenn T. Henneberger, Reg. No. 36,074; Irving N. Feit, Reg. No. 28,601; Anthony E. Bennett, Reg. No. 40,910; Gregory A. Bachmann, Reg. No. P41,593; Steven T. Zuschlag, Reg. No. 43,309; Susan A. Sipos, Reg. No. 43,128; and Kevin E. McDermott, Reg. No. 35,946, each of them of HOFFMANN & BARON, LLP, 6900 Jericho Turnpike, Syosset, New York 11791; and Daniel A. Scola, Jr., Reg. No. 29,855; Salvatore J. Abbruzzese, Reg. No. 30,152; Kirk M. Miles, Reg. No. 37,891; Robert F. Chisholm, Reg. No. 39,939; Kellyanne Merkel, Reg. No. 43,800; John S. Sopko, Reg. No. 41,321; Barry H. Jacobsen, Reg. No. 43,689; and Keith R. Lange, Reg. No. 44,201, and Gloria K. Szakiel, Reg. No. 45,149, each of them of HOFFMANN & BARON, LLP, 1055 Parsippany Boulevard, Parsippany, New Jersey 07054.

SEND CORRESPONDENCE TO

☒ Address

Hoffmann & Baron, LLP
6900 Jericho Turnpike
Syosset, NY 11791

☐ Customer Number _____

DIRECT TELEPHONE CALLS TO: *(Name and telephone number)*

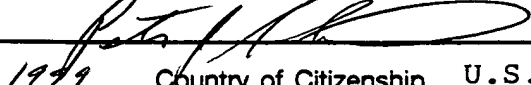
Salvatore J. Abbruzzese
(973) 331-1700

(Reissue Application Declaration and Power of Attorney [17-6]—page 4 of 6)

DECLARATION

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Signature(s)☐ **BY THE INVENTOR(S)**

Full name of sole or first inventor Peter J. Schmitt
 Inventor's signature 
 Date December 8, 1999 Country of Citizenship U.S.
 Residence 2 Bubenko Drive, Garnerville, NY 10923
 Post Office Address Same as above

Full name of second joint inventor, if any Jose F. Nunez
 Inventor's signature _____
 Date _____ Country of Citizenship U.S.
 Residence 2804 Silver Lane, St. Anthony, MN 55421
 Post Office Address Same as above

☐ **BY ASSIGNEE OR PERSON AUTHORIZED TO SIGN ON BEHALF OF ASSIGNEE**

NOTE: Even though inventor(s) do not sign, complete above information for inventor(s).

(complete the following, if applicable)

Meadox Medicals, Inc.
 (type name of assignee)
45 Barbour Pond Drive
 Address of assignee
Wayne, NJ 07470

Title of person authorized to sign on behalf of assignee

☒ Assignment recorded in PTO on 8/2/94
 Reel 7115
 Frame 0854

☒ A separate ☒ "ASSIGNMENT (DOCUMENT) COVER SHEET"
 or ☐ FORM PTO 1595 is submitted herewith along with the assign-
 ment _____

09464610-121599

STATEMENT BY ASSIGNEE

- ☒ Attached is a "STATEMENT UNDER 37 C.F.R. 3.73(b)," establishing the right of the assignee to take action in this reissue.

Signature of assignee or person authorized to
sign on behalf of assignee

(check proper box(es) for any added page(s) forming a part of this declaration)

- ☐ Signature for third and subsequent joint inventors. Number of pages added. _____
- ☐ Signature by administrator(trix), executor(trix) or legal representative for deceased or incapacitated inventor. Number of pages added. _____
- ☐ Signature for inventor who refuses to sign or cannot be reached by person authorized under 37 C.F.R. § 1.47. Number of pages added. _____
- ☐ Statement of inoperativeness or invalidity of original patent. 37 C.F.R. § 1.175. Number of pages added _____
- ☐ Authorization of attorney(s) to accept and follow instructions from representative.
- ☐ Corroborating statements of others.

(Reissue Application Declaration and Power of Attorney [17-6]—page 6 of 6)

09464610-124599

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**In re application for Reissue of U.S. Patent No. 5,697,970**

Applicant(s): Schmitt, et al.

Examiner: Unassigned

Serial No.: Unassigned

Group Art Unit: 3308 (Anticipated)

Filed: Concurrently Herewith

Docket: 498-53 CON RES

For: THINLY WOVEN
FLEXIBLE GRAFT

Dated: December 15, 1999

Date 12/15/99 Label No. EJ279940144US

I hereby certify that on the date indicated above I deposited this paper or fee with the U.S. Postal Service and that it was addressed for delivery to the Assistant Commissioner of Patents, Washington, D.C. 20231 by "EXPRESS MAIL POST OFFICE to ADDRESSEE" service.

M.J. Mullin M.J. Mullin
Name (Print) (Signature)

Assistant Commissioner for Patents
Washington, DC 20231

REISSUE DECLARATION

Sir:

I, Jose F. Nunez, declare that I am a citizen of the United States and a resident of St. Anthony, Minnesota, and:

I, Peter J. Schmitt, declare that I am a citizen of the United States and a resident of Garnerville, New York, and:

that we believe that we are the original and first inventors of the subject matter claimed in U.S. Patent No. 5,697,970 (hereinafter the '970 patent), entitled "Thinly Woven Flexible Graft";

that we have reviewed and understand the specification of the accompanying reissue application, including the claims;

that we believe that we are the original and first inventors of the subject matter which is claimed and for which a reissue patent is sought; and

that we acknowledge our duty to disclose to the U.S. Patent and Trademark Office all information known to us to be material to patentability as defined in 37 C.F.R. §1.56.

We further declare that we believe the above-identified original patent to be partly

09464610-11599
665727-0794960

inoperative or invalid by reason of our claiming less than we had a right to claim in the original patent. Specifically, we believe that the original patent is partly inoperative or invalid for including limitations in the claims that were not required by the prior art.

After reviewing the specification and issued claims of the U.S. Patent No. 5,697,970 and consulting with patent attorneys for Meadox Medicals, Inc. assignee of the '970 patent and the law firm of Hoffmann & Baron, LLP, who are outside patent counsel for Meadox, we came to the realization that we had inadvertently failed to claim certain broad aspects of our invention.

We believe that the error constituted inadvertent failure to appreciate the full scope of the claims which were available in view of the prior art, and that the error arose without any deceptive intent on our part.

Claim 17 of the reissue application corresponds generally with claim 1 of the '970 patent. Claim 17, however, differs from claim 1 in at least one respect including, for example:

the limitation "said tubular body having longitudinally spaced wave-like, generally uniform crimps along the length thereof, said crimps extending on both sides of the said tubular body and having a crimp frequency of no less than about 6 crimps per centimeter" included in claim 1 does not appear in claim 17.

This and other limitations in claim 1 and claim 11 resulted from the apparent failure of ourselves and patent counsel to fully appreciate the limiting nature of these claim limitations, as well as failure to fully appreciate the full scope of the invention as taught by the specification. During prosecution of the application, we did not fully realize or appreciate the effect of these limitations on the scope of coverage provided by this resulting patent.

We have always felt that a significant feature of this invention is that the prosthesis is a thinly woven structure, having a wall thickness not exceeding 0.16 mm. The thinly woven prosthesis of the present invention need not utilize a plurality of longitudinally spaced wave-like

crimps as set forth in the issued claims. Similarly, an aspect of the invention is the capability of the thinly woven graft to be radially compressed for insertion into a delivery catheter. We believe that the claims presented herewith enable the full scope of the invention to be appreciated.

Furthermore, all errors being corrected in the present reissue application arose without any deceptive intention on our part.

We declare that all statements made herein of our own knowledge are true, and that all statements made upon information and belief are believed to be true and further, that those statements were made after being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. §1001, and that such false statements may jeopardize the validity of this application or any patent issuing thereon.

Peter J. Schmitt


Inventor's Signature

December 10, 1999
Date

2 Bubenko Drive, Camerville, NY 10923
Residence

Jose F. Nunez

Inventor's Signature

Date

2804 Silver Lane, Apt. 209, St. Anthony, MN 55421
Residence

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**In re application for Reissue of U.S. Patent No. 5,697,970**

Applicant(s): Schmitt, et al.

Examiner: Unassigned

Serial No.: Unassigned

Group Art Unit: 3308 (Anticipated)

Filed: Concurrently Herewith

Docket: 498-53 CON RES

For: THINLY WOVEN
FLEXIBLE GRAFT


Dated: December 15, 1999

Date 12/15/99 Label No. EJ279940144US

I hereby certify that on the date indicated above I
deposited this paper or fee with the U.S. Postal Service
and that it was addressed for delivery to the Assistant
Commissioner of Patents, Washington, D.C. 20231 by
"EXPRESS MAIL POST OFFICE to ADDRESSEE " service.



Name (Print)



(Signature)

Assistant Commissioner for Patents
Washington, DC 20231

REISSUE DECLARATION

Sir:

I, Jose F. Nunez, declare that I am a citizen of the United States and a resident of St. Anthony, Minnesota, and:

I, Peter J. Schmitt, declare that I am a citizen of the United States and a resident of Garnerville, New York, and:

that we believe that we are the original and first inventors of the subject matter claimed in U.S. Patent No. 5,697,970 (hereinafter the '970 patent), entitled "Thinly Woven Flexible Graft";

that we have reviewed and understand the specification of the accompanying reissue application, including the claims;

that we believe that we are the original and first inventors of the subject matter which is claimed and for which a reissue patent is sought; and

that we acknowledge our duty to disclose to the U.S. Patent and Trademark Office all information known to us to be material to patentability as defined in 37 C.F.R. §1.56.

We further declare that we believe the above-identified original patent to be partly

065454510-11599

inoperative or invalid by reason of our claiming less than we had a right to claim in the original patent. Specifically, we believe that the original patent is partly inoperative or invalid for including limitations in the claims that were not required by the prior art.

After reviewing the specification and issued claims of the U.S. Patent No. 5,697,970 and consulting with patent attorneys for Meadox Medicals, Inc. assignee of the '970 patent and the law firm of Hoffmann & Baron, LLP, who are outside patent counsel for Meadox, we came to the realization that we had inadvertently failed to claim certain broad aspects of our invention.

We believe that the error constituted inadvertent failure to appreciate the full scope of the claims which were available in view of the prior art, and that the error arose without any deceptive intent on our part.

Claim 17 of the reissue application corresponds generally with claim 1 of the '970 patent. Claim 17, however, differs from claim 1 in at least one respect including, for example:

the limitation "said tubular body having longitudinally spaced wave-like, generally uniform crimps along the length thereof, said crimps extending on both sides of the said tubular body and having a crimp frequency of no less than about 6 crimps per centimeter" included in claim 1 does not appear in claim 17.

This and other limitations in claim 1 and claim 11 resulted from the apparent failure of ourselves and patent counsel to fully appreciate the limiting nature of these claim limitations, as well as failure to fully appreciate the full scope of the invention as taught by the specification. During prosecution of the application, we did not fully realize or appreciate the effect of these limitations on the scope of coverage provided by this resulting patent.

We have always felt that a significant feature of this invention is that the prosthesis is a thinly woven structure, having a wall thickness not exceeding 0.16 mm. The thinly woven prosthesis of the present invention need not utilize a plurality of longitudinally spaced wave-like

crimps as set forth in the issued claims. Similarly, an aspect of the invention is the capability of the thinly woven graft to be radially compressed for insertion into a delivery catheter. We believe that the claims presented herewith enable the full scope of the invention to be appreciated.

Furthermore, all errors being corrected in the present reissue application arose without any deceptive intention on our part.

We declare that all statements made herein of our own knowledge are true, and that all statements made upon information and belief are believed to be true and further, that these statements were made after being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. §1001, and that such false statements may jeopardize the validity of this application or any patent issuing thereon.

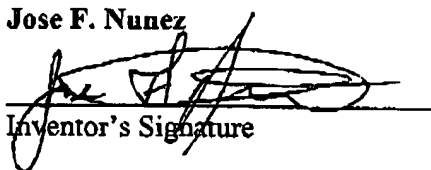
Peter J. Schmitt

Inventor's Signature

Date

2 Bubenko Drive, Garnerville, NY 10923
Residence

Jose F. Nunez



Inventor's Signature

12-13-99
Date

2804 Silver Lane, Apt. 209, St. Anthony, MN 55421
Residence

Practitioner's Docket No. 498-53 CON/RES**PATENT****IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of: *Peter J. Schmitt; Jose F. Nunez

Application No.: / Group No.:

Filed:

For: THINLY WOVEN FLEXIBLE Examiner:

5,697,970 GRAFT* Issue Date: December 16, 1997

Patent*:

Issue Date: _____

Reexamination No.:

Issue Date: _____

Reissue:

*NOTE: Insert name(s) of inventor(s) and title for patent.

Assistant Commissioner for Patents

Washington, D.C. 20231

**STATEMENT UNDER 37 C.F.R. § 3.73(b)—
ESTABLISHING RIGHT OF ASSIGNEE TO TAKE ACTION****CERTIFICATION UNDER 37 C.F.R. §§ 1.8(a) and 1.10****(When using Express Mail, the Express Mail label number is mandatory;
Express Mail certification is optional.)*

I hereby certify that, on the date shown below, this correspondence is being:

MAILING☒ deposited with the United States Postal Service in an envelope addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231**37 C.F.R. § 1.8(a)****37 C.F.R. § 1.10***☐ with sufficient postage as first class mail.☒ as "Express Mail Post Office to Addressee"Mailing Label No. EJ27940144US (mandatory)**TRANSMISSION**☐ transmitted by facsimile to the Patent and Trademark Office.

Signature

Date: December 15, 1999

(type or print name of person certifying)

***WARNING:** Each paper or fee filed by Express Mail must have the number of the "Express Mail" mailing label placed thereon prior to mailing. 37 C.F.R. § 1.10(b).*"Since the filing of correspondence under § 1.10 without the Express Mail mailing label thereon is an oversight that can be avoided by the exercise of reasonable care, requests for waiver of this requirement will not be granted on petition." Notice of Oct. 24, 1996, 60 Fed. Reg. 56,439, at 56,442.*

09464610-121599

NOTE: 37 CFR 3.73(b) states: "When an assignee seeks to take action in a matter before the Office with respect to a patent application, . . . , patent, registration, or reexamination proceeding, the assignee must establish its ownership of the property to the satisfaction of the Commissioner. Ownership is established by submitting to the Office, in the Office file related to the matter in which action is sought to be taken, documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment submitted for recording) or by specifying (e.g., reel and frame number) where such evidence is recorded in the Office. The submission establishing ownership must be signed by a party authorized to act on behalf of the assignee. Documents submitted to establish ownership may be required to be recorded as a condition to permitting the assignee to take action in a matter pending before the Office."

NOTE: "Section 3.73(b) is amended to remove the sentence requiring an assignee to specifically state that the evidentiary documents have been reviewed and to certify that title is in the assignee seeking to take action. The sentence is deemed to be unnecessary in view of the amendment to §§ 1.4(d) and 10.18." Notice of Oct. 10, 1997, 62 Fed. Reg. 53,131, at 53,174.

1. The assignee(s) of the entire right, title and interest hereby seek(s) to take action in the PTO in this matter.

IDENTIFICATION OF ASSIGNEE

2. Meadox Medicals, Inc.
Name of assignee
Corporation
Type of assignee, e.g., corporation, partnership, university, government agency, etc.

PERSON AUTHORIZED TO SIGN

3. _____
(type name of person authorized to sign on behalf of assignee)

Title of person authorized to sign

NOTE: The Notice of April 30, 1993 (1150 O.G. 62-64) points out:

"The statement under 37 CFR 3.73(b) may be signed on behalf of the assignee in the following two manners if the assignee is an organization (e.g., corporation, partnership, university, government agency, etc.).

"(1) The statement may be signed by a person in the organization having apparent authority to sign on behalf of the organization. An officer (president, vice-president, secretary, or treasurer) is presumed to have authority to sign on behalf of the organization. The signature of the chairman of the board of directors is acceptable, but not the signature of an individual director. A person having a title (manager, director, administrator, general counsel) that does not clearly set forth that person as an officer of the assignee is not presumed to be an officer of the assignee or to have authority to sign the statement on behalf of the assignee. A power of attorney from the inventors in an organization to a practitioner to prosecute a patent application does not make the practitioner an official of an assignee or empower the practitioner to sign the statement on behalf of the assignee.

"(2) The statement may be signed by any person, if the statement includes an averment that the person is empowered to sign the statement on behalf of the assignee and, if not signed by a registered practitioner, the statement must be in oath or declaration form. Where a statement does not include such an averment, and the person signing does not hold a position in the organization that would give rise to a presumption that the person is empowered to sign the statement on behalf of the assignee, evidence of the person's authority to sign will be required."

[Author's Note: The requirement for an oath or declaration for this statement by a person not a registered practitioner was rescinded by the rules effective December 1, 1997.]

(complete the following, if applicable)

- ☐ I, the person signing below, state that I am empowered to sign this statement on behalf of the assignee.

(Statement under 37 C.F.R. § 3.73(b) — Establishing Right of Assignee to Take Action [16-16]—page 2 of 4)

BASIS OF ASSIGNEE'S INTEREST

Ownership by the assignee is established as follows:

A.

1. ☒ An assignment from the inventor(s) of the matter identified above, which was recorded in the PTO at
Reel 7111, Frame 0854.
2. ☐ An assignment (document) separately being submitted for recordal herewith.

AND/OR

- B.** ☒ A chain of title from the inventor(s) to the current assignee as shown below:

1. From: Peter J. Schmitt
Name of inventor(s)
To: Meadox Medicals, Inc.

Recorded in PTO: Reel
7111, Frame 0854

2. From: Jose F. Nunez
Name of inventor(s) or assignee
To: Meadox Medicals, Inc.

Recorded in PTO: Reel
7111, Frame 0854

3. From: _____
Name of inventor(s) or assignee
To: _____

Recorded in PTO: Reel
_____, Frame _____

(check item below, and add details, if applicable)

- ☐ Additional documents in the chain of title are listed in the attached Supplemental Sheet.

COPIES OF DOCUMENTS IN CHAIN OF TITLE

(complete this item, if copies are being sent)

- ☒ Copies of the assignment(s) or other document(s) in the chain of title are attached as follows:

☒ A ☒ 1 ☐ 2
☒ B ☒ 1 ☒ 2 ☐ 3

09464610-11599

655727-07949460

(Signature of authorized person)

(type or print name of authorized person)

Title of authorized person

Reg. No.: 30,152

Tel. No.: (973) 331-1700

Customer No.:



SIGNATURE OF PRACTITIONER

Salvatore J. Abbruzese

(type or print name of practitioner)

Hoffmann & Baron, LLP

P.O. Address

6900 Jericho Turnpike
Syosset, NY 11791

(Statement under 37 C.F.R. § 3.73(b) — Establishing Right of Assignee to Take Action [16-16]—page 4 of 4)

Practitioner's Docket No. 498-53 CON/RES**PATENT****REISSUE APPLICATION BY THE INVENTOR, OFFER TO SURRENDER
(37 C.F.R. § 1.178)**

To the Assistant Commissioner for Patents:

1. The undersigned applicant of the accompanying reissue application for the reissue of letters patent for the improvement in THINLY WOVEN FLEXIBLE GRAFT
 Patent number 5,697,970 granted to him/her on December 16, 1997, of which

- ☐ he/she is now sole owner,
☒ Meadox Medicals, Inc.

is now sole owner by assignment, and on whose behalf and with whose assent the accompanying application is made,

☒ The "ASSENT BY THE ASSIGNEE" to this reissue application is attached.

Date: 12-13-99

Signature(s)

Jose F. Nunez

(type or print name(s))

CERTIFICATION UNDER 37 C.F.R. § 1.10*
 (Express Mail label number is mandatory.)
 (Express Mail certification is optional.)

I hereby certify that this correspondence and the documents referred to as attached therein are being deposited with the United States Postal Service on this date December 15, 1999, in an envelope as "Express Mail Post Office to Addressee," service under 37 C.F.R. § 1.10, Mailing Label Number E1279940144US, addressed to the: Assistant Commissioner for Patents, Washington, D.C. 20231.

M J Mullin
 (type or print name of person mailing paper)

mjmullin
 Signature of person mailing paper

WARNING: Certificate of mailing (first class) or facsimile transmission procedures of 37 C.F.R. § 1.8 cannot be used to obtain a date of mailing or transmission for this correspondence.

"WARNING: Each paper or fee filed by "Express Mail" must have the number of the "Express Mail" mailing label placed thereon prior to mailing. 37 C.F.R. § 1.10(b).

"Since the filing of correspondence under § 1.10 without the Express Mail mailing label thereon is an oversight that can be avoided by the exercise of reasonable care, requests for waiver of this requirement will not be granted on petition." Notice of Oct. 24, 1996, 60 Fed. Reg. 56,439, at 56,442.

(Reissue Application by the Inventor, Offer to Surrender (37 C.F.R. § 1.178)—Assent of Assignee
 [17-2]—page 1 of 2)

09464610 11599

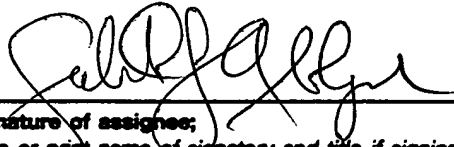
ASSENT OF ASSIGNEE TO REISSUE

The undersigned, assignee of the entire interest in the above-mentioned letters patent, hereby assents to the accompanying application.

STATEMENT BY ASSIGNEE

- ☒ Attached is a "STATEMENT UNDER 37 C.F.R. 3.73(b)," establishing the right of the assignee to take action in this reissue.

Date: Dec 15, 1999



Signature of assignee;
(type or print name of signatory and title if signing
on behalf of an entity)

Salvatore J. Abbruzzese

Reg. No. 30,152

Practitioner's Docket No. 498-53 CON/RES**PATENT****REISSUE APPLICATION BY THE INVENTOR, OFFER TO SURRENDER
(37 C.F.R. § 1.178)**

To the Assistant Commissioner for Patents:

1. The undersigned applicant of the accompanying reissue application for the reissue of letters patent for the improvement in THINLY WOVEN FLEXIBLE GRAFT
Patent number 5,697,970 granted to him/her on December 16, 1997, of which

☐ he/she is now sole owner,

☒ Meadox Medicals, Inc.

is now sole owner by assignment, and on whose behalf and with whose assent the accompanying application is made,

☒ The "ASSENT BY THE ASSIGNEE" to this reissue application is attached.

Date: December 8, 1999

Signature(s)

Peter J. Schmitt

(type or print name(s))

CERTIFICATION UNDER 37 C.F.R. § 1.10*

(Express Mail label number is mandatory.)

(Express Mail certification is optional.)

I hereby certify that this correspondence and the documents referred to as attached therein are being deposited with the United States Postal Service on this date December 15, 1999, in an envelope as "Express Mail Post Office to Addressee," service under 37 C.F.R. § 1.10, Mailing Label Number EJ279940144US, addressed to the: Assistant Commissioner for Patents, Washington, D.C. 20231.

M J Mullin
(type or print name of person mailing paper)

M J Mullin
Signature of person mailing paper

WARNING: Certificate of mailing (first class) or facsimile transmission procedures of 37 C.F.R. § 1.8 cannot be used to obtain a date of mailing or transmission for this correspondence.

***WARNING:** Each paper or fee filed by "Express Mail" must have the number of the "Express Mail" mailing label placed thereon prior to mailing. 37 C.F.R. § 1.10(b).

"Since the filing of correspondence under § 1.10 without the Express Mail mailing label thereon is an oversight that can be avoided by the exercise of reasonable care, requests for waiver of this requirement will **not** be granted on petition." Notice of Oct. 24, 1996, 60 Fed. Reg. 56,439, at 56,442.

(Reissue Application by the Inventor, Offer to Surrender (37 C.F.R. § 1.178)—Assent of Assignee

[17-2]—page 1 of 2)

09464610-121599

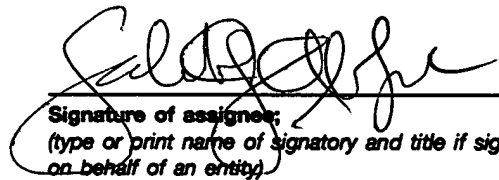
ASSENT OF ASSIGNEE TO REISSUE

The undersigned, assignee of the entire interest in the above-mentioned letters patent, hereby assents to the accompanying application.

STATEMENT BY ASSIGNEE

- ☒ Attached is a "STATEMENT UNDER 37 C.F.R. 3.73(b)," establishing the right of the assignee to take action in this reissue.

Date: Dec 15, 1999


Signature of assignee;
(type or print name of signatory and title if signing
on behalf of an entity)

Salvatore J. Abbruzzese

Reg. No. 30,152

RECORDATION FORM COVER SHEET
PATENTS ONLYU.S. DEPARTMENT OF COMMERCE
Patent and Trademark Office

08/285334

Tab settings = 0 9 ▼

To the Honorable Commissioner of Patents and Trademarks: Please record the attached original documents or copy thereof.

1. Name of conveying party(ies):

Peter J. Schmitt
Jose F. NunezAdditional name(s) of conveying party(ies) attached? ☐ Yes ☒ No

3. Nature of conveyance:

☒ Assignment☐ Merger☐ Security Agreement☐ Change of Name☐ Other

Execution Date: 7/12/94

2. Name and address of receiving party(ies)

Name: Meadox Medicals, Inc.

Internal Address: 112 Bauer Drive
Oakland, New Jersey 07436 USA

Street Address:

City: State: ZIP:

Additional name(s) & address(es) attached? ☐ Yes ☒ No

4. Application number(s) or patent number(s):

If this document is being filed together with a new application, the execution date of the application is: 8/2/94

A. Patent Application No.(s)

B. Patent No.(s)

Additional numbers attached? ☐ Yes ☒ No

5. Name and address of party to whom correspondence concerning document should be mailed:

Name: Salvatore J. Abbruzzese

Internal Address: Hoffmann & Baron

350 Jericho Turnpike

Jericho, NY 11753

Street Address:

City: State: ZIP:

6. Total number of applications and patents involved: 1

7. Total fee (37 CFR 3.41).....\$ 40.00

☒ Enclosed☐ Authorized to be charged to deposit account

8. Deposit account number:

93569553

(Attach duplicate copy of this page if paying by deposit account)

060 TL 08/15/94 08285334

DO NOT USE THIS SPACE

1 581

40.00 CK

9. Statement and signature.

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

Salvatore J. Abbruzzese

Name of Person Signing

RN 30,152

Signature

Total number of pages including cover sheet, attachments, and document: 4

8/2/94

Date



DATE: 09/21/94
TO:

N09B

SALVATORE J. ABBRUZZESE
HOFFMANN & BARON
350 JERICHO TURNPIKE
JERICHO, NY 11753

ASSISTANT SECRETARY AND COMMISSIONER
OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

UNITED STATES PATENT AND TRADEMARK OFFICE
NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENT

THE ENCLOSED DOCUMENT HAS BEEN RECORDED BY THE ASSIGNMENT BRANCH OF THE U.S. PATENT AND TRADEMARK OFFICE. A COMPLETE MICROFILM COPY IS AVAILABLE AT THE U.S. PATENT AND TRADEMARK OFFICE ON THE REEL AND FRAME NUMBER REFERENCED BELOW.

PLEASE REVIEW ALL INFORMATION CONTAINED ON THIS NOTICE. THE INFORMATION CONTAINED ON THIS RECORDATION NOTICE REFLECTS THE DATA PRESENT IN THE PATENT ASSIGNMENT PROCESSING SYSTEM. IF YOU SHOULD FIND ANY ERRORS OR QUESTIONS CONCERNING THIS NOTICE, YOU MAY CONTACT THE EMPLOYEE WHOSE NAME APPEARS ON THIS NOTICE AT 703-308-9723. PLEASE SEND REQUEST FOR CORRECTION TO: U.S. PATENT AND TRADEMARK OFFICE, ASSIGNMENT BRANCH, NORTH TOWER BUILDING, SUITE 10C35, WASHINGTON, D.C. 20231

ASSIGNOR:
SCHMITT, PETER J.

DOC DATE: 07/12/94

ASSIGNOR:
NUNEZ, JOSE F.

DOC DATE: 07/12/94

RECORDATION DATE: 08/02/94 NUMBER OF PAGES 004 REEL/FRAME 7111/0854

DIGEST : ASSIGNMENT OF ASSIGNORS INTEREST

ASSIGNEE:
MEADOX MEDICALS, INC.
112 BAUER DRIVE
OAKLAND, NEW JERSEY 07436

SERIAL NUMBER	8-285334	FILING DATE	08/02/94
PATENT NUMBER		ISSUE DATE	00/00/00

Connie Mack

EXAMINER/PARALEGAL
ASSIGNMENT BRANCH
ASSIGNMENT/CERTIFICATION SERVICES DIVISION

PATENT

For: ☒ U.S. and/or ☒ Foreign Rights
 For: ☒ U.S. Application or ☐ U.S. Patent
 By: ☒ Inventors or ☐ Present Owners

ASSIGNMENT OF INVENTION

In consideration of the payment by ASSIGNEE to ASSIGNOR of the sum of One Dollar (\$1.00), the receipt of which is hereby acknowledged, and for other good and valuable consideration,

ASSIGNOR: (inventors or persons or entities who own the invention)

Peter J. Schmitt

Jose F. Nunez

2 Bubenko Drive

11 Grove Street

Garnerville, NY 10923

Kearny, NJ 07032

USA

USA

(If assignment is by person or entity to whom invention was previously assigned and this was recorded in PTO add the following)

Recorded on _____
 Reel _____
 Frame _____

hereby sells, assigns and transfers to

ASSIGNEE:

Meadox Medicals, Inc.

(Type or print name of ASSIGNEE)

112 Bauer Drive

Address

Oakland, NJ 07436

USA

Nationality

REEL 7111
 FRAME 855

and the successors, assigns and legal representatives of the ASSIGNEE

(complete one of the following)

☒ the entire right, title and interest

☐ an undivided _____ percent (_____%)
 interest for the United States and its territorial possessions

(check the following box if foreign rights are also to be assigned)

☒ and in all foreign countries, including all rights to claim priority, in and to any and all improvements which are disclosed in the invention entitled:

THINLY WOVEN FLEXIBLE GRAFT

(check and complete (a), (b), (c) or (d))

and which is found

- (a) ☒ U.S. patent application executed on even date herewith
(b) ☐ U.S. patent application executed on _____
(c) ☐ U.S. application serial no. 0 / _____ filed on _____
(d) ☐ U.S. patent no. _____ issued _____
[] A change of address to which correspondence is to be sent regarding patent maintenance fees is being sent separately.

(also check (e) if foreign application(s) is also being assigned)

- (e) ☒ and any legal equivalent thereof in a foreign country, including the right to claim priority

and, in and to, all Letters Patent to be obtained for said invention by the above application or any continuation, division, renewal, or substitute thereof, and as to Letters Patent any re-issue or re-examination thereof

ASSIGNOR hereby covenants that no assignment, sale, agreement or encumbrance has been or will be made or entered into which would conflict with this assignment;

ASSIGNOR further covenants that ASSIGNEE will, upon its request, be provided promptly with all pertinent facts and documents relating to said invention and said Letters Patent and legal equivalents as may be known and accessible to ASSIGNOR and will testify as to the same in any interference, litigation or proceeding related thereto and will promptly execute and deliver to ASSIGNEE or its legal representatives any and all papers, instruments or affidavits required to apply for, obtain, maintain, issue and enforce said application, said invention and said Letters Patent and said equivalents thereof which may be necessary or desirable to carry out the purposes thereof.

IN WITNESS WHEREOF, We have hereunto set hand and seal this

WARNING: Date of signing must be the same as the date of execution of the application if item (a) was checked above.

Date: X July 12, 1994
(Date of signing)

X 
SIGNATURE of ASSIGNOR Peter J. Schmitt

Date: X July 12, 1994

X 
Jose F. Nunez

If ASSIGNOR is a legal entity complete the following information

Type or print the name of the above person
authorized to sign on behalf of ASSIGNOR

Title

NOTE: No witnessing, notarization or legalization is necessary. If the assignment is notarized or legalized then it will only be prima facie evidence of execution 35 USC 261. Use next page if notarization is desired.

[] Notarization or Legalization Page Added.

STATE OF *NEW JERSEY*
COUNTY OF *BERGEN* SS

On this *12th* day of *JULY*, 1994, before me personally appeared *PETER. J. SCHMITT* to me personally known and known to me to be the person who signed the foregoing Assignment and acknowledged the signing of same as his/her free act and deed.

Barbara Lawrence
Notary Public
My Commission expires July 23, 1996

STATE OF *NEW JERSEY*
COUNTY OF *BERGEN* SS

On this *12th* day of *JULY*, 1994, before me personally appeared *JOSE F. NUNEZ* to me personally known and known to me to be the person who signed the foregoing Assignment and acknowledged the signing of same as his/her free act and deed.

Barbara Lawrence
Notary Public
My Commission expires July 23, 1996

RECORDED
PATENT AND TRADEMARK
OFFICE

AUG -2 1994

REEL 7111
FRAME 857